

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTINE RUARK,

Plaintiff,

v.

LIBERTY LIFE ASSURANCE COMPANY
OF BOSTON AND MASSACHUSETTS
MUTUAL LIFE INSURANCE COMPANY,

Defendants.

Civil Action No.: 04-30013-MAP

DEFENDANTS' STATEMENT PURSUANT TO LOCAL RULE 16.1(D)

The parties to the above-captioned matter have conferred and were unable to reach an agreement on the issues. Defendants, therefore, now submit their statement pursuant to Local Rule 16.1 of the United States District Court, District of Massachusetts and the Court's Notice of Scheduling Conference. Defendants' proposed schedule is based on its agreement to produce the Administrative Record that it reviewed when it decided whether Plaintiff was entitled to long-term disability benefits as well as the relevant plan documents. Other than these documents, Defendants do not believe that discovery is necessary prior to filing motions for summary judgment in this case, because this case is solely concerned with a denial of long-term disability benefits under the Employee Income Retirement Security Act, 29 U.S.C. §1001 ("ERISA"). As such, the Court will be limited to the Administrative Record when reviewing motions for summary judgment. See Lane v. Director of Employee Benefits, Gannett Company, Inc., 2003 WL 1477292, *4 and n. 6 (D.Mass. 2003). Plaintiff, on the other hand, has indicated that she believes discovery is permissible and necessary in this case.

Defendants' Proposed Pretrial Schedule and Discovery Plan

June 15, 2004	Administrative Record and relevant plan documents produced to Plaintiff
September 30, 2004	Deadline for filing summary judgment motions based on Administrative Record, if any party determines that such a motion is appropriate. A moving party may file a reply to the opposition of the responding party.
October 29, 2004	Deadline for filing oppositions to summary judgment motions.
November 15, 2004	Deadline for filing reply brief to any opposition to motions for summary judgment
January 14, 2005	Hearing and Status Conference regarding summary judgment motions and remaining discovery schedule, should summary judgment motion not be allowed.

SETTLEMENT

Plaintiff submitted a settlement proposal on Friday, April 23, 2004, in which she demanded the payment of long-term disability benefits from February 1, 2001 through the present and continuing.

CERTIFICATIONS

Local Rule 16.1(D)(3) certifications will be filed by the Defendants under separate cover. The parties have not reached agreement to have a trial in front of a Magistrate Judge.

WHEREFORE, Defendants respectfully requests that the Court approve their Proposed Pretrial Schedule and Discovery Plan, with such amendments as the Court deems just and proper.

Respectfully submitted,

LIBERTY LIFE ASSURANCE COMPANY
OF BOSTON AND MASSACHUSETTS MUTUAL LIFE
INSURANCE COMPANY
By their attorneys,

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Dated: April 28, 2004